



DEPARTMENT OF THE TREASURY

INTERNAL REVENUE SERVICE

1100 Commerce Street, MS 4920 DAL

Dallas, TX 75242

501.06-00

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Release Number: 201349021

Release Number: 12/6/2013

LEGEND

ORG - Organization name

XX - Date Address - address

Date:

July 2, 2013

Form:

Tax Period(s) Ended:

Taxpayer Identification Number:

Person to Contact/ID Number:

Contact Numbers:

Phone:

Fax:

Dear ,

In a determination letter dated August 20XX, you were held to be exempt from Federal income tax under section 501(c)(6) of the Internal Revenue Code (the Code).

Based on recent information received, we have determined you have not operated in accordance with the provisions of section 501(c)(6) of the Code. Accordingly, your exemption from Federal income tax is revoked effective January 1, 20XX. This is a final letter with regard to your exempt status.

We previously provided you a report of examination explaining why we believe revocation of your exempt status was necessary. At that time, we informed you of your right to contact the Taxpayer Advocate, as well as your appeal rights. On April 25, 20XX you signed Form 6018-A, Consent to Proposed Action, agreeing to the revocation of your exempt status under section 501(c)(6) of the Code.

You are required to file Federal income tax returns for the tax period(s) shown above. If you have not yet filed these returns, please file them with the Ogden Service Center within 60 days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free, 1-877-777-4778, and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please contact the person whose name and telephone number are shown at the beginning of this letter.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Director, EO Examinations

**Department of the Treasury**  
**Internal Revenue Service**  
**Tax Exempt and Government Entities Division**  
Exempt Organizations: Examinations  
3730 S. Elizabeth Street  
Independence, MO 64057

Date: March 15, 2013

Taxpayer identification number:

Form:

Tax year(s) ended:

Person to contact/ID number:

Contact numbers:

Telephone:

Fax:

Manager's name/ID number:

Manager's contact number:

Response due date:

ORG  
ADDRESS

**Certified Mail – Return Receipt Requested**

Dear :

**Why you are receiving this letter**

Enclosed is a copy of our report of examination explaining why revocation of your organization's tax-exempt status is necessary.

**What you need to do if you agree**

If you agree with our findings, please sign the enclosed Form 6018-A, *Consent to Proposed Action*, and return it to the contact at the address listed above. We'll send you a final letter revoking your exempt status.

**If we don't hear from you**

If we don't hear from you within 30 calendar days from the date of this letter, we'll process your case based on the recommendations shown in the report of examination and this letter will become final.

**Effects of revocation**

In the event of revocation, you'll be required to file federal income tax returns for the tax year(s) shown above. File these returns with the contact at the address listed above within 30 calendar days from the date of this letter, unless a request for an extension of time is granted. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

**What you need to do if you disagree with our findings**

If you disagree with our position, you may request a meeting or telephone conference with the supervisor of the contact identified in the heading of this letter. You also may file a protest with

the IRS Appeals office by submitting a written request to the contact person at the address listed above within 30 calendar days from the date of this letter. The Appeals office is independent of the Exempt Organizations division and resolves most disputes informally.

For your protest to be valid, it must contain certain specific information, including a statement of the facts, the applicable law and arguments in support of your position. For specific information needed for a valid protest, please refer to page one of the enclosed Publication 892, *How to Appeal an IRS Decision on Tax-Exempt Status*, and page six of the enclosed Publication 3498, *The Examination Process*. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process. Please note that Fast Track Mediation referred to in Publication 3498 generally doesn't apply after we issue this letter.

If you and Appeals don't agree on some or all of the issues after your Appeals conference, or if you don't request an Appeals conference, you may file suit in United States Tax Court, the United States Court of Federal Claims, or United States District Court after satisfying procedural and jurisdictional requirements.

You may also request that we refer this matter for technical advice as explained in Publication 892. Please contact the person identified in the heading of this letter if you're considering requesting technical advice. If we send a determination letter to you based on a technical advice memorandum issued by the Exempt Organizations Rulings and Agreements office, then no further IRS administrative appeal will be available to you.

**Contacting the Taxpayer Advocate Office is a taxpayer right**

You have the right to contact the office of the Taxpayer Advocate Service (TAS). **TAS is your voice at the IRS. This service helps taxpayers whose problems with the IRS are causing financial difficulties; who have tried but haven't been able to resolve their problems with the IRS; and those who believe an IRS system or procedure is not working as it should. If you believe you are eligible for TAS assistance, you can call the toll-free number 1-877-777-4778 or TTY/TDD 1-800-829-4059. For more information, go to [www.irs.gov/advocate](http://www.irs.gov/advocate).** If you prefer, you may contact your local Taxpayer Advocate at:

**For additional information**

If you have any questions, please call the contact at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Nanette M. Downing  
Director, EO Examinations

Enclosures:  
Report of Examination  
Form 6018-A  
Publication 892  
Publication 3498

Form <b>886-A</b> (Rev. January 1994)	<b>REPORT OF EXAMINATION</b>		Schedule number or exhibit  0001
Name of taxpayer ORG	Tax Identification Number <b>EIN</b>	Year/Period ended December 31, 20XX	

Per Return: 990  
Per Exam: December 31, 20XX

**LEGEND**

ORG - Organization name EIN - ein XX - date City - city State - state  
FDN-1 - 1<sup>st</sup> Founder CERT-1 through CERT-8 - 1<sup>st</sup> through 8<sup>th</sup> CERT  
CO-1 through CO-7<sup>th</sup> - 1<sup>st</sup> THROUGH 7<sup>TH</sup> COMPANIES

**Issue(s):**

Whether ORG (ORG) continues to qualify for exemption under Section 501(c)(6) of the Internal Revenue Code.

**Facts:**

Exempt under the laws of the State of 20XX, ORG was originally called CO-1. The organization was founded by FDN-1. The organization mission is an independent, scientific, and professional association representing forensic examiners worldwide, actively promote the dissemination of forensic information and the continued advancement of forensic examination and consultation across the many professional fields of membership. The date the Internal Revenue Service recognized exemption, under IRC §501(c)(6), is August 1993.

ORG is a membership organization. ORG has no employees. The organization board consists of founder, FDN-1, his daughter, and a third person. When contacting the organization the caller would reach a company called CO-2. CO-2 was started by the FDN-1 to manage ORG. FDN-1 also created several other for-profit related entities, CO-3, CO-4, CO-5, CO-6, and CO-7. ORG does not directly involved itself with its operations and activities, but instead CO-2 manage all of ORG operations and activities directed by FDN-1. CO-2 publishes ORG quarterly magazine, coordinate the CPE offering, collect membership fees, manage the membership listing, updates ORG websites, manage the finances of ORG, and be a point of contact for ORG. ORG ceded controls of its operations to CO-2.

According to the ORG website, ORG offer several forensic certification programs, CERT-1, CERT-2, CERT-3, CERT-4, CERT-5, CERT-6, CERT-7, and CERT-8. These programs are ran by the for-profit related organization founded by FDN-1. The for-profit corporation developed the test, administered it, and fees are collected and recognized by the for-profit corporation.

ORG memberships relies heavily on the certification programs ran by the for-profit corporation. According to the website anyone that wishes to be certified must be a member of ORG. They are not allow to take the exam without becoming a member and paying the membership dues. The reality is no all persons becomes members of ORG. If the person pass the certification examination their payment towards membership dues is recognized by the related for-profit corporation. They are considered as a member of the related for-profit corporation. Any future payments of membership dues would be recognized by the related for-profit corporation. ORG would get members who have

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failed the examination and recognized their dues as income. By doing so the for-profit corporation robs ORG of the best and brightest members.

Per the contract agreement between ORG and CO-2, CO-2 would provides the following services to ORG:

- Maintenance of membership database including updates on address, phone, fax, e-mail, interest section and dues payment history
- Monthly invoices for ORG members commencing 30 days in advance of member anniversary date
- Mailing of new member packets within 1-2 weeks of receipt of dues
- Maintain staffing levels necessary to answer incoming calls
- Supply a chief association officer and other appropriate staff to ensure all membership processing runs efficiently
- Maintain appropriate bank accounts in the City area
- Provide financial reports suitable for audit
- Provide updates to the ORG website
- Membership recruitment campaigns ("outbound marketing")
- Work with the ORG Executive Director and appropriate educational committee to develop the educational program for the annual meetings
- Coordinate all educational program logistics, including budget for the annual meetings
- Work with the ORG Executive Director and the appropriate education committee to determine additional educational programs for the membership
- Work with the ORG Executive Director and the appropriate education committee to develop curriculums for courses as well as certification and advance courses.
- Develop an education catalogue for ORG members
- Coordinate the application process for accreditation in various discipline
- Market ORG educational offerings
- Develop budget for all educational offerings

ORG shall pay to CO-2 \$ per paid members (new or renewing). The contract was signed by FDN-1 for both organization. In the year ending 20XX ORG had a total of \$ in revenues and paid the management fees of \$ (%). In 20XX ORG had \$ and paid \$ in professional fees (%) and in 20XX ORG had \$ in revenues and paid \$ in management fees (%).

The funds of ORG is control by the president with no oversight. There were a loan made to FDN-1 from the organization with a balance of \$ at the end of year 20XX. The board of ORG consists of the president, his daughter, and another person. No minutes were available. All decision is made by the president. ORG members are not involved in the operation of the organization.

**Law:**

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**IRC §501(c)(6)** provides the following definition; Business leagues, chambers of commerce, real-estate boards, boards of trade, or professional football leagues (whether or not administering a pension fund for football players), not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

**Treasury Regulation §1.501(c)(6) -1** - Provides in part that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization, whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

**Lowry Hospital Association v. Commissioner of Internal Revenue, 66 T.C. 850 (1976)** – the court held that large, unsecured loans made to a nursing home owned by the organization’s founder and a trust for his children constituted inurement.

**Church By Mail, Inc v. United States of American, CIV. A. No 87-0754-LFO** – the court found that even if actual payment of manifestly excessive compensation were not inurement because the complex accounting makes precise tracing difficult without the services of an IRS Special Agent, there would be inurement because the control exercised by the controlling parties over the related entities creates a ‘potential for abuse.’

**Bubbling Well Church of Universal Love, Inc v. Commissioner** – the court held that domination of an organization by a few members alone may not necessarily disqualify it for exemption, it provides an obvious opportunity for abuse of the claimed tax-exempt status. It calls for open and candid disclosure of all facts bearing upon petitioner’s organization, operation, and finances so that the Court, should it uphold the claimed exemption, can be assured that it is not sanctioning an abuse of the revenue laws.

**EST of Hawaii v. Commissioner, 71 T.C. 1067 (1979)** – held that a nonprofit organization could not qualify for tax exempt status because it was part of a franchise system, controlled by a for profit corporations, and thus was operated for private and commercial purposes. The for profit corporation exert “considerable control” over the nonprofit organization’s activities. The organization’s “only function” was portrayed as “presenting to the public for fee ideas that are owned by” for-profit corporation with materials and trainers that are supplied and controlled by the for profit corporations.

**National Muffler Dealers Association, Inc v. United States 440 U.S. 472 (1979)** – The U.S. Supreme Court upheld the validity of the tax regulations pertaining to business leagues which mandate that exempt business leagues direct their activities to improvement of the business conditions of one or more lines of business. The association of a particular brand name of muffler dealers does not qualify for

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exemption because the association is not engaged in the improvement of business conditions of a whole line of business.

### **Governments Position:**

In accordance with the above-cited provisions of the Code and regulations under section 501(c)(6), Treasury Regulation §1.501(c)(6), and the court cases listed above, ORG is not considered to be the type of an organization for which an exemption from tax was intended. The following is list of issues; anyone of them would disqualify ORG from exemption:

- 1) **Memberships Support** - Treasury Regulation §1.501(c)(6) -1 - Provides in part that an association of persons having some common business interest, the purpose of which is to promote such common interest. ORG does not have voting membership. ORG board is a self-perpetuating board and the general membership does not have the power to elect board members. The members of ORG are not involved in the operations and activities of the organization at a meaningful level. Without voting members and members involvement, ORG does not have membership within the meaning of section 501(c)(6).
- 2) **Unsecured Loan made to founder of the organization** - IRC §501(c)(6) – States no part of the net earnings of which inures to the benefit of any private shareholder or individual. The organization made an unsecured loan to the founder of the organization. *Lowry Hospital Association v. Commissioner of Internal Revenue* held that such loan is inurement thus a private benefit to the founder.
- 3) **Arm's-Length Transaction** – The service is unable to determine if the contract between ORG and \_\_\_\_\_ were in the best interest of ORG. In the audit year over % of ORG gross revenues (\$ per member) were paid to \_\_\_\_\_. In 20XX the ratio was over %. There were no analysis or competitive bids to see if this were a fair amount. There is no explanation of how they derived the \$ per member. *Bubbling Well Church of Universal Love, Inc v. Commissioner* calls for open and candid disclosure of all facts bearing upon petitioner's organization, operation, and finances so that the Court, should it uphold the claimed exemption, can be assured that it is not sanctioning an abuse of the revenue laws. ORG fails to provide enough details of the transactions to disprove any private benefit jeopardizing their claim for exemption.
- 4) **Relationship With Founder's For Profit Entities** – \_\_\_\_\_ receives substantial compensation. Members who pass certification automatically becomes members of the founder for profit corporation and their dues are recognized by the for profit corporation even though the website stated that they are members of ORG. Test fees is recognized by the for profit corporation. FDN-1 signed contracts for both ORG and \_\_\_\_\_. There is no oversight of an independent board. *Church By Mail, Inc v. United States of American* the court found there would be inurement because the control exercised by the controlling parties over the related entities creates a 'potential for abuse.'



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**5) Operational Relationship With For Profit Entities –** . manage every aspect of ORG. . handles all of the organization CPE, publishing, accounting, and members. ORG ability to remove itself from is severely impaired. ORG is dependent on . for its operation. *EST of Hawaii v. Commissioner* – held that a nonprofit organization could not qualify for tax exempt status controlled by a for profit corporations.

**6) Improvement of Business Conditions of a Whole Line of Business –** ORG members are persons that failed to pass the certification test. If the person passes the exam later, they would become members of founders' for-profit related entity. Such a setup would cause a drain ORG of the brightest and best members. Improvements of business conditions would be unlikely and any improvements would benefit the for profit entity at the expense of the rest of the forensic industry. *National Muffler Dealers Association, Inc v. United States* - The court held that association does not qualify for exemption because the association is not engaged in the improvement of business conditions of a whole line of business.

### Conclusion:

The Government concludes that the Exceptional Organizations does not meet the requirements to be recognized as exempt from federal income tax under 501(c)(6) of the Internal Revenue Code. Accordingly, the organization's exempt status is revoked effective January 1, 20XX.